

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM JAMES STRICKLAND,
Petitioner,

v.

FEDERAL BUREAU OF PRISONS,
Respondent.

Case No. C07-5542FDB

ORDER DENYING MOTION FOR
ADJUSTMENT OF SENTENCE or,
ALTERNATIVELY FOR
CLARIFICATION RE FBOP POLICY

In Cause No. C03-5562FDB, Petitioner Strickland filed a petition pursuant to 28 U.S.C. § 2255, and relief was granted per stipulation on May 10, 2004. Petitioner was resentenced August 5, 2004 to a term of imprisonment of 120 months for Conspiracy to Manufacture Methamphetamine, and the Court recommended to the Bureau of Prisons that the Defendant be eligible for drug treatment.

In the present cause of action, Petitioner against seeks relief pursuant to Section 2255 “for adjustment of sentence, or in the alternative for clarification of the conflict between the Federal Bureau of Prisons [“FBOP”] interpretation and application of FBOP Policy Statement No. 5162.04 and the plain language of Code Federal Regulations [“CFR”] 28 CFR § 550.58(a)(vi) “Crime of Violence.” Strickland argues in summary that his lawful ownership of firearms prior to his arrest

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1 does not qualify as a crime of violence where his lawful firearms were not used to threaten use of
2 physical force during his arrest. Strickland asks that the enhancement for possession of a legally
3 owned firearm during the commission of a drug offense be eliminated, or, alternatively, that the
4 Court find that the Bureau of Prison's standard policy of finding a prisoner ineligible for the drug
5 program based solely on an "enhancement" conflicts with the plain language of 28 CFR §§
6 550.58(a)(vi)(A) thru (D).

7 A one-year limitation period applies to 2255 causes of action, running from the date on which
8 the judgment of conviction becomes final. As Strickland was resentenced on August 5, 2004, the
9 limitation period has run. Also, Strickland is incarcerated at the Federal Correctional Institution in
10 San Pedro, California, and his claim against the Bureau of Prisons may be construed as pursuant to
11 28 U.S.C. § 2241 and should have been brought in the "district court of the district wherein the
12 restraint complained of is had."

13 ACCORDINGLY, IT IS ORDERED: Petitioner Strickland's Motion for Adjustment of
14 Sentence, or in The Alternative, Clarification re Federal Bureau of Prisons Policy, etc. is DENIED
15 and this cause of action is DISMISSED.

16 DATED this 15th day of October, 2007.

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18 FRANKLIN D. BURGESS
19 UNITED STATES DISTRICT JUDGE
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